

A1-135

MULE CREEK STATE PRISON

P.O. BOX 409099

IONE CALIFORNIA 95640

FILED
AUG 26 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN
PLAINTIFF,

v.

M.S. EVANS ET AL.,
DEFENDANTS.

CASE NO. 08 4067

REQUEST FOR APPOINTMENT OF
COUNSEL BASED ON EXCEPTIONAL
CIRCUMSTANCES.

E-filing

VRW

(PR)

I RUSSELL MARTIN, DECLARE THAT I AM THE PLAINTIFF IN THE ABOVE REFERENCE MATTER. I AM INCARCERATED AT MULE CREEK STATE PRISON. I AM INDIGENT AND UNABLE TO AFFORD COUNSEL. MY TOTAL ASSETS ARE 0 AND MY INCOME IS 0 PER MONTH ALREADY BEFORE THE COURT. I HEREBY REQUEST THAT COUNSEL BE APPOINTED IN THIS MATTER SO THAT MY INTERESTS MAY BE PROTECTED BY THE PROFESSIONAL ASSISTANCE REQUIRED. IN CERTAIN EXCEPTIONAL CIRCUMSTANCES, THE COURT MAY REQUEST THE VOLUNTARY ASSISTANCE OF COUNSEL PURSUANT TO 28 U.S.C. 1915 (e)(1) TERRELL V. BREWER 935 F.2d 1015-1017 (9TH CIR 1991) THE COURT WILL SEEK VOLUNTEER COUNSEL ONLY IN THE MOST SERIOUS AND EXCEPTIONAL CASES. A FINDING OF EXCEPTIONAL CIRCUMSTANCE REQUIRES AN EVALUATION OF BOTH THE LIKELIHOOD OF SUCCESS OF THE MERITS AND THE ABILITY OF THE PLAINTIFF TO ARTICULATE HIS CLAIMS PRO SE IN LIGHT OF THE COMPLEXITY OF THE LEGAL ISSUES INVOLVED" TERRELL 935 F.2d AT 1017. PLAINTIFF IS A LAYMAN, UNSKILLED IN LAW AND DOES NOT POSSESS THE LEGAL KNOWLEDGE AND SKILL WHICH IMPERATIVE TO LITIGATE THIS ACTION. PLAINTIFF HAS MADE SERIOUS ALLEGATIONS, IF PROVED TRUE, WOULD ENTITLE PLAINTIFF TO COMPENSATION. THIS CASE IS COMPLEXED DUE TO PLAINTIFF'S ILLITERACY WHICH IS GOOD CAUSE FOR EXCEPTIONAL CIRCUMSTANCES. SEE EXHIBIT "A" PLAINTIFF'S GRADE SCHOOL TABE TEST RESULTS. PLAINTIFF HAS RECEIVED

ASSISTANCE THROUGHOUT THE PREPARATION AND FILING OF THIS CIVIL ACTION.

WHEREFORE, PLAINTIFF PRAYS THIS HONORABLE COURT GRANT PLAINTIFF MOTION FOR APPOINTMENT OF COUNSEL FORTHWITH UNDER EXCEPTIONAL CIRCUMSTANCES AND COMPLEXITY INVOLVED.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

DATE 8/19/2008

RESPECTFULLY SUBMITTED
Renea W. Smith